

**No. 14/13/87-6Lab./201.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer Industrial Tribunal-cum-Labour Court, Rohtak respect of the dispute between the workman and the management of M/s Secretary, HSEB, Panchkula *versus* Shri Ram Phal.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK.

Reference No. 253 of 1992.

*between*

SHRI RAM PHAL, S/O SHRI JOHARI C/O PRESIDENT, BHARTIYA MAZDOOR SANGH, G. T., ROAD, PANIPAT., .. *Workman.*

*and*

M/S SECRETARY, H.S.E.B., PANCHKULA, (2) M/S THE EXECUTIVE ENGINEER, S. I. CONSTRUCTION DIVISION, HSEB. KARNAL. .. *Management*

*Present :*

Shri Karan Singh, A. R., for the workman.

Shri S. S. Sirohi, L. O., for the management.

#### AWARD

In exercise of the powers conferred by Sub-Clause (c) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication,—*vide* Labour Department Notification No. 3/25/90-3 Lab., dated the 29th October, 1991:—

Whether the termination /retrenchment of Shri Ram Phal is justified and in order ? If not, to what relief he is entitled ?

2. The workman and the management were summoned. The workman is relying upon demand notice filed under Section 2-A of the I. D. Act, is that he was appointed on daily wages with effect from 17th September, 1979 and he worked for about 687 days upto 31st August, 1983. His services were terminated but without paying the retrenchment compensation hence this demand notice was filed for reinstatement with continuity of service and full back wages.

3. Reply to the demand notice was filed by the management that the claim petition of the petitioner is wrong and hence denied ; the petitioner was appointed on 17th September, 1979; the services of the petitioner were terminated on account of shortage of material and less quantum of work with effect from 31st August, 1983 ; the petitioner was given one month notice before terminating his services (copy of which) annexed as R-I; the official mentioned in the para had to be kept in Board's service because of the judgement of the Presiding Officer, Labour Court, thus the order of termination is legal, justifiable and within jurisdiction as the services of the petitioner had been rightly terminated by the respondent after complying the provisions of Section 25-F of the I. D. Act, 1947.

4. Replication was filed by the workman. On the pleadings of the parties, the following issues were framed :—

1. Whether the impugned termination of services of the workman is invalid ? OPW.
2. Whether the reference is bad in law ? OPM.
3. Relief.

5. My findings on the above issues with reasons thereof are as under :—

**Issue No. 1 :**

6. The workman has come into witness box as WW-1 and closed his evidence. The management has examined Shri Rameshwar Dass, U. D. C., as MW-1 and closed the evidence.

7. The question involved in this case for decision is whether the workman was appointed for particular work and the work had finished and thereafter there was no alternative except to relieve the workman from the job. To prove that the workman was appointed for particular work, the management has examined Shri Rameshwar Dass Clerk and who made the statement that the work of the applicant was retrenched on 1st September, 1983 because of lack of the work and the workman was given retrenchment notice etc. but he refused, the copy of which Ex. MW-1/1 and Ex. MW-1/2. He also made statement that after termination of the workman Shri Ramesh Chand was employed in the Division and no application was received from the applicant for appointment after his termination of service. Mr. Rameshwar Dass could not tell as to how much amount was paid to the workman as retrenchment compensation without seeing the official record which was not brought on that day in the Court. He also made statement that retrenchment notice was issued and sanction from Government that retrenchment of the workers was sought but he had not brought the record so he could not tell as to when the retrenchment notice was issued. He also made statement that the workers had come to join the service again as per order of the Court. So he was could not tell after closure of the S. I. Division that the applicant was transferred to this Division. He also could not bring the seniority list and he could not tell as to at what number of the applicant is and at what number of Ramphal is.

8. On the other hand the applicant had made the different statement that he was posted on the dated of 1st December, 1990 and worked upto 31st August, 1983 and he was removed from job without any notice, notice pay and retrenchment compensation etc. He also made statement that after removal of workman two person namely Jaswant Singh and Mahabir Singh were appointed. So the workman admitted that the was working in S. I. C. Division of H. S. E. B. Karnal and this Division was closed. After that some of the workers were transferred to other Division.

9. From the evidence it is proved that the workman had served for more than 240 days in a year and it is not proved that the workman was given the notice, notice pay or retrenchment compensation while removing from the job. It is proved that as the workman had served for more than 240 days in a year, His services could not terminated without do compliance of Section 25-F of the Act. Then the management has not specifically denied the allegations of the workman that he served the management for about 240 days in a year. The workman brought to the notice the case law of Gurmeet Singh and others *versus* Indian Iron Steel Co. Ltd., and others cited in 1994 Lab. I. C., 45.

10. He also referred the case of Hussainbhai *versus* Alath Factory Tozhilali Union and others decided by the Hon'ble Supreme Court on July, 28, 1978, regarding the relationship of Master and Servant between the parties, which is not applicable to the facts of the case.

11. It is proved that as the workman had served for more than 240 days in a year and his services was terminated without compliance of Section 25-F of the I. D. Act which the management could not do it. As I hold that the termination of the workman is illegal. As such I accept the reference petition and decide this issue in favour of the workman and against the management.

#### Issue No. 2 and 3 :

12. Both these issues are not pressed or argued by the parties. Hence I decide both these issues against the management.

#### Issue No. 4 (Relief) :

13. In view of my findings on the above issues I accept the reference petition of the workman and direct the management to re-employ the workman with 30 % of back wages from the back date. The reference is answered and returned accordingly, with no orders as to costs.

The 3rd June, 1994.

P. L. KHANDUJA,

Presiding Officer,

Industrial Tribunal/Labour Court, Rohtak.

Endorsement No. 1430, dated the 9th June, 1994.

A copy is forwarded to the following :—

1. Labour Commissioner, Haryana, Chandigarh.
2. Labour Officer, Karnal.

P. L. KHANDUJA,

Presiding Officer,  
Industrial Tribunal/Labour Court,  
Rohtak,